

REMARKS/ARGUMENTS

I. General Remarks.

Applicants respectfully request that the Examiner reconsider the application in view of the following remarks.

II. Disposition of the Claims.

Claims 1-42 are pending. Claims 1-3, 7, 18-20 and 24-27 are rejected. Claims 4-6 and 21-23 are objected to.

On June 22, 2005, during a telephone conversation with the Examiner, claims 1-7 and 18-27 were elected in response to the Examiner's restriction requirement. Applicants hereby confirm this election. Claims 8-17 have been withdrawn from consideration and Claims 21-32 have been canceled due to the Examiner's restriction requirement. Applicants reserve their right to take up prosecution on the claims as originally filed in this or an appropriate continuation, continuation-in-part, or divisional application.

III. Remarks Regarding Rejections Under 35 U.S.C. § 103.

A. Claims 1-3, 7, 18-20, 24, 25, and 27 Are Not Obvious over the Tjon-Joe-Pin Reference in View of the Dawson Reference.

The Examiner has rejected claims 1-3, 7, 18-20, 24, 25, and 27 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,186,235 issued to Tjon-Joe-Pin et al. (the "Tjon-Joe-Pin Reference") in view of U.S. Patent No. 5,447,199 issued to Dawson et al. (the "Dawson Reference"). Applicants respectfully traverse.

To establish a *prima facie* case of obviousness, the cited references must teach or suggest each and every claim limitation. *See Manual of Patent Examining Procedure* § 2142 (8th ed., rev. 2, May 2004) (hereinafter "MPEP"). Since the combination of the Tjon-Joe-Pin Reference and the Dawson Reference does not teach or suggest each and every claim limitation, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness with respect to claims 1-3, 7, 18-20, 24, 25, and 27. *See* MPEP § 2142.

In particular, independent claims 1 and 18 recite the step of "preparing or providing a viscous cross-linked aqueous . . . fluid that comprises . . . a combination cross-linker and delayed breaker." As used in the Application, the term "combination cross-linker and delayed breaker" refers to a single component that functions to both cross-link the xanthan biopolymer and to break the viscous crosslinked aqueous treating fluid. For example, the

Applicants disclose metaperiodic acid salts as examples of the combination cross-linker and delayed breaker. (Application, ¶ 0013.)

Rather than using a combination cross-linker and delayed breaker, the Tjon-Joe-Pin Reference includes a separate cross-linker and delayed breaker. For example, the Tjon-Joe-Pin Reference provides that: “a gellable [sic] fracturing fluid composed of a breaker-crosslinker-polymer complex is provided. The complex comprises a matrix of compounds, substantially all of which include a breaker component, a crosslinker component, and a polymer component.” (Tjon-Joe-Pin Reference, Col. 2, ll. 11-16.) The crosslinker component disclosed in the Tjon-Joe-Pin Reference may be “any of the conventionally used crosslinking agents that are known to those skilled in the art, for instance, . . . gellation [sic] of the hydratable polymer has been achieved by crosslinking these polymers with metal ions.” (Tjon-Joe-Pin Reference, Col. 3, ll. 30-37.) Regarding the breaker component disclosed in the Tjon-Joe-Pin Reference, such breaker component is preferably “polymer specific enzymes.” (Tjon-Joe-Pin Reference, Col. 4, ll. 34-36.) Thus, instead of disclosing a combination cross-linker and delayed breaker, the Tjon-Joe-Pin Reference discloses separate cross-linkers and delayed breakers, such as metal ions and polymer specific enzymes. The Tjon-Joe-Pin Reference, therefore, does not disclose the step of preparing or providing a viscous cross-linked aqueous fluid that comprises a combination cross-linker and delayed breaker as recited in independent claims 1 and 18.

Nor can the Dawson Reference be used to supply this missing recitation. For instance, the Dawson Reference is directed to fracturing fluids “formulated by blending together an aqueous fluid, a hydratable polymer, a suitable crosslinking agent for crosslinking the hydratable polymer . . . and [a] slightly water soluble, organic peroxide breaker.” (Dawson, Col. 3, ll. 16-20.) Thus, instead of disclosing a combination cross-linker and delayed breaker, the Dawson Reference discloses separate cross-linkers and delayed breakers. The Dawson Reference, therefore, does not disclose the step of preparing or providing a viscous cross-linked aqueous . . . fluid that comprises . . . a combination cross-linker and delayed breaker as recited in independent claims 1 and 18. Accordingly, the combination of Tjon-Joe-Pin Reference and the Dawson Reference does not teach or suggest each and every limitation of independent claims 1 and 18 and, thus, cannot be used to form a *prima facie* case of obviousness with respect to these claims.

For the foregoing reasons, Applicants respectfully assert that independent claims 1 and 18 are not obvious over the Tjon-Joe-Pin Reference in view of the Dawson Reference. The remaining claims depend either directly or indirectly on either independent claim 1 or 18. All these dependent claims, which include all the limitations of their corresponding independent claim, are allowable for at least the reasons cited above with respect to independent claims 1 and 18. Accordingly, the Applicants respectfully request withdrawal of this rejection with respect to claims 1-3, 7, 18-20, 24, 25, and 27.

B. Claims 26 Is Not Obvious over the Tjon-Joe-Pin Reference in View of the Dawson Reference and Further in View of the Terry Reference.

The Examiner has rejected claim 26 under 35 U.S.C. § 103(a) as being obvious over the Tjon-Joe-Pin Reference in view of the Dawson Reference and further in view of U.S. Patent No. 3,700,032 issued to Terry et al. (the "Terry Reference"). Applicants respectfully traverse.

To establish a *prima facie* case of obviousness, the cited references must teach or suggest each and every claim limitation. *See* MPEP § 2142. Since the combination of the Tjon-Joe-Pin Reference, the Dawson Reference, and the Terry Reference does not teach or suggest each and every claim limitation, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness with respect to claim 26. *See* MPEP § 2142.

Claim 26 depends either directly or indirectly from independent claim 18. Independent claim 18 recites the step of "preparing or providing a viscous cross-linked aqueous fracturing fluid that comprises . . . a combination cross-linker and delayed breaker." As discussed above, neither the Tjon-Joe-Pin Reference nor the Dawson Reference disclose the use of a combination cross-linker and delayed breaker. Nor can the Terry Reference be used to supply this missing recitation. Therefore, independent claim 18 is not obvious over the Tjon-Joe-Pin Reference in view of the Dawson Reference and further in view of the Terry Reference. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." *See* MPEP § 2143.03. Accordingly, dependent claim 26 is not obvious in view of this combination and thus withdrawal of this rejection with respect to claim 26 is respectfully requested.

IV. Remarks Regarding Objection to Claims 4-6 and 21-23.

The Examiner has objected to claims 4-6 and 21-23 as being dependent upon a rejected base claim, but indicated that such claims would be allowable if rewritten in

independent form. The Applicants gratefully acknowledge the Examiner's indication of the allowability of these claims.

In light of the above remarks with respect to independent claims 1 and 18, such independent claims are patentable in view of the cited references. Claims 4-6 and 21-23 depend directly or indirectly on either independent claim 1 or 18. All these dependent claims, which include all the limitations of their corresponding independent claim, are allowable for at least the reasons cited above with respect to independent claims 1 and 18. Accordingly, the Applicants respectfully request withdrawal of this objection with respect to claims 4-6 and 21-23.

SUMMARY

In light of the above remarks and amendments, Applicants respectfully request reconsideration and withdrawal of the outstanding objections and rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that no additional fees are due in association with the filing of this response. However, should the Commissioner deem that any additional fees are due, including any fees for extensions of time, Applicants respectfully request that the Commissioner accept this as a Petition Therefor, and direct that any additional fees be charged to the Deposit Account of Halliburton Energy Services, Inc., No. 08-0300 (Reference Number 2003-IP-010070U1) for any underpayment of fees that may be due in association with this filing.

Respectfully submitted,



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